

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MICHAEL R. KOLE,
JOSEPH L. WEINGARTEN, and
GLENN J. BROWN, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

SCOTT FAULTLESS, DANIEL HENKE,
EILEEN PRITCHARD, STUART EASLEY,
DAVID GEORGE, ARTHUR LEVINE,
THE TOWN COUNCIL OF FISHERS,
INDIANA, and FALL CREEK TOWNSHIP,

Defendants.

CASE NO. 1:10-cv-01735-TWP-DML

**Adoption of Report and Recommendation and
Certification of Question to the Indiana Supreme Court**

The Magistrate Judge submitted her Report and Recommendation (Dkt. 76) on Plaintiffs' motion to reopen case and to certify a question of state law. (Docket No. 69 and 69-1.) The parties were afforded due opportunity according to statute and the Federal Rules of Civil Procedure to file objections. No party has filed an objection. The court, having considered the Magistrate Judge's Report and being duly advised, now approves and adopts the Magistrate Judge's Report and Recommendation. The plaintiffs' motion (Dkt. 69) is therefore GRANTED as provided in the Report and Recommendation and this order.

Accordingly, under Indiana Rule of Appellate Procedure 64(A), this court hereby certifies the following issue of state law to the Indiana Supreme Court:

Whether a political unit may reorganize into a city under Ind. Code art. 36-1.5 (the "Reorganization Act") in a manner that eliminates voting rights recognized under Ind. Code § 36-4-5-2 and Ind. Code § 36-4-6-3(i), including reorganization

as a city with (1) a council elected entirely at large, and (2) a mayor appointed by that council.

As provided by Indiana Rule of Appellate Procedure 64(B), the Clerk of this Court shall transmit the following items to the Clerk of the Indiana Supreme Court:

1. A copy of this Adoption of Report and Recommendation and Certification of Question to Indiana Supreme Court;
2. A copy of the case docket;
3. A copy of the Report and Recommendation on Plaintiffs' Motion to Reopen and to Certify Question of State Law to the Indiana Supreme Court; and
4. A copy of this court's Entry on Defendants' Motion to Dismiss and Alternative Motion to Set a Bond on Plaintiffs' State Claims.

So ORDERED.

Dated: 12/06/2011

Distribution:

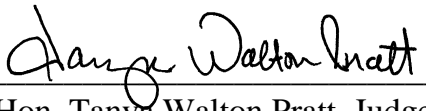
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Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana